

## REMARKS

The present amendment is submitted in response to the Office Action dated September 3, 2008, which set a three-month period for response, making this amendment due by December 3, 2008.

Claims 1-10 are pending in this application.

In the Office Action, claims 1-10 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2,351,377 to Warsher.

In the present amendment, the specification has been amended to add a cross reference to the related priority documents, to add standard headings, and to delete reference to the claims.

The claims were amended to adopt standard claim format.

To more clearly define the present invention over the cited reference to Warsher, claim 1 was amended to further define that *the magnet is disposed on the tongue element (4), on the carrier plate (3), or on both the tongue element (4) and carrier plate (3)*” and that *“between the tongue element (4) and the carrier plate (3), an air gap (7) is formed, in which the magnetically sensitive element (6) is disposed for detecting a force that produces a relative motion between the magnet and magnetically sensitive element (6), and wherein the force to be detected is applied to the carrier plate (3) or the tongue element (4)”*.

Method claim 10 has been amended in a similar manner.

The claims as amended more clearly recite that for the force detection, an association of the magnet and magnetically sensitive element is evaluated. The

cited patent to Warsher relates to a relay, not, however, to a measuring device for detecting a force. In Warsher, no force is exerted on the tongue 39 or plate 42 for its detection.


It follows, then, that no relative motion between a magnetically sensitive element and the magnets is produced for force detection. Since the magnets in Warsher appear to be always fixedly disposed, they should be viewed as magnetically sensitive elements. The above-noted relative motion between the magnetic and magnetically sensitive element for force detection, as defined in the amended claims, is therefore not disclosed by Warsher.

Because the amended independent claims include features that are not disclosed by Warsher, the rejection under Section 102 must be withdrawn. The Applicant furthermore respectfully submits that Warsher is not a proper reference under 35 USC 102 pursuant to the guidelines set forth in the last paragraph of MPEP section 2131, where it is stated that “a claim is anticipated only if each and every element as set forth in the claims is found, either expressly or inherently described, in a single prior art reference”, and that “the identical invention must be shown in as complete detail as is contained in the ... claim”. Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. ***Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.***, 221 USPQ 481, 485 (Fed. Cir. 1984).

The application in its amended state is believed to be in condition for allowance. Action to this end is courteously solicited. However, should the

Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,



Michael J. Striker  
Attorney for Applicant(s)  
Reg. No. 27233  
103 East Neck Road  
Huntington, New York 11743  
631-549-4700